

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**FOURTH OPT OUT REPORT  
SUBMITTED BY THE CLAIMS ADMINISTRATOR**

BrownGreer PLC ("BrownGreer"), the Claims Administrator under the proposed Class Action Settlement Agreement ("Settlement Agreement") in this matter, submits this Fourth Opt Out Report to supplement its three previously filed Opt Out Reports:

**1. *First Opt Out Report by the Claims Administrator.*** Pursuant to Paragraph 4.j of the July 7, 2014 Preliminary Approval Order (Document 6084), BrownGreer filed its First Opt Out Report on November 3, 2014 (Document 6340), to describe the process by which we reviewed and reported on Opt Out requests submitted to the Claims Administrator and identify the Opt Out requests received by that date.

**2. *Second Opt Out Report by the Claims Administrator.*** After the filing of the First Opt Out Report, we received additional correspondence and inquiries from certain Class Members whose Opt Out requests had been identified as untimely in the First Opt Out Report. We analyzed all such inquiries and conducted additional research where appropriate to assess the proper classification of Opt Out requests as timely or untimely. The Second Opt Out Report we filed on November 13, 2014 (Document 6424), summarized the results of that analysis,

including the reclassification of five Opt Out requests from those appearing to be untimely to those appearing to be timely, based upon information provided to us after the First Report.

**3. *Third Opt Out Report by the Claims Administrator.*** After the Second Opt Out Report, the Parties to the Settlement Agreement agreed to grant the revocation requests made by two Class Members who had submitted timely Opt Outs. Our Third Opt Out Report filed on November 18, 2014 (Document 6438), presented the number of Opt Out requests after the Parties granted those two revocation requests.

**4. *Developments Since the Third Opt Out Report.*** After the Third Opt Out Report, we received additional correspondence from and information about certain Class Members with Opt Out requests. The Parties to the Settlement Agreement agreed to grant revocation requests made by two Class Members who had submitted timely Opt Outs. These developments are explained more fully in Paragraph 5 below. Exhibit 1 to this Fourth Report identifies the 221 Opt Out requests that appear to be timely after these developments. Exhibit 2 lists the nine Opt Out requests that appear to be untimely. This table summarizes the two Exhibits and the Opt Out statistics as of the date of this Fourth Opt Out Report:

| <b>OPT-OUT REQUESTS: SUMMARY OF FOURTH REPORT</b>   |   |     |
|---|---|-----|
| <b>A. TIMELY OPT OUT REQUESTS (See Exhibit 1)</b>   |   |     |
| <b>1.</b>   | <b>Retired NFL Football Players</b>               | 198 |
| <b>2.</b>   | <b>Relatives of a Retired NFL Football Player</b> | 23  |
| <b>3.</b>   | <b>TOTAL</b>                                      | 221 |
| <b>B. UNTIMELY OPT-OUT REQUESTS (See Exhibit 2)</b> |   |     |
| <b>4.</b>   | <b>Retired NFL Football Players</b>               | 8   |
| <b>5.</b>   | <b>Relative of a Retired NFL Football Player</b>  | 1   |
| <b>6.</b>   | <b>TOTAL</b>                                      | 9   |

**5. *Details on Developments Since the Third Opt Out Report.*** We provide this update to the Court and the Parties:

- (a) Joshua Cribbs: On November 20, 2014, we received an email from NFL Counsel informing us that Joshua Cribbs, who had submitted a timely Opt Out request (#49 in Exhibit 1 to the Third Opt Out Report), had signed to play football with the Indianapolis Colts on November 18, 2014. Section 1.1 of the Class Action Settlement Agreement defines the Settlement Class as “all Retired NFL Football Players, Representative Claimants, and Derivative Claimants.” Section 2.1(ffff) defines Retired NFL Football Players as “all living NFL Football Players who, prior to the date of the Preliminary Approval and Class Certification Order, retired, formally or informally, from playing professional football . . . and who no longer are under contract to a Member Club and are not seeking active employment as players with any Member Club.” Because Mr. Cribbs signed with a Member Club after the date of Preliminary Approval, he is not a Settlement Class Member and thus need not opt out of the Settlement Class. As a result, he is no longer counted among the Opt Outs and we have removed him from Exhibit 1 to this Fourth Opt Out Report.
- (b) Elizabeth Phillips: On November 25, 2014, we received a letter from Elizabeth Phillips (#213 in Exhibit 1 to this Report), a Settlement Class Member who had submitted a timely Opt Out request, informing us that she is the sister of Joseph Phillips, a Retired NFL Football Player who had also submitted a timely Opt Out request. In Exhibit 1 to previous Opt Out Reports, we had classified Ms. Phillips as Unable to Identify Settlement Class Member Type. Based on this new information, we have classified her as a Relative of a Retired NFL Football Player in Exhibit 1 to this Fourth Report.
- (c) William Simpson: We also had classified Mr. Simpson (#169 in Exhibit 1 to this Report) as Unable to Identify Settlement Class Member Type. On December 9, 2014, we contacted Mr. Simpson’s attorney, David Franco at the Dugan Law Firm, and he informed us that Mr. Simpson is a Retired NFL Football Player. Based on this information, we have classified him as a Retired NFL Football Player in Exhibit 1 to this Fourth Report. As a result, we no longer have any potential Opt Outs whose statuses we have been unable to determine.
- (d) Steve August and George Youngblood: Since the November 18, 2014 filing of the Third Opt Out Report, the Parties to the Settlement Agreement agreed to grant the revocation requests made by Steve August (#8 in Exhibit 1 to the Third Opt Out Report) and George Youngblood (#199 in Exhibit 1 to the Third Opt Out Report), two Class Members who had submitted timely Opt Outs. We no longer count these two persons as Opt Outs and we have removed their names from Exhibit 1.
- (e) Joseph Horn (#90 in Exhibit 1 to this Report): The envelope of Mr. Horn’s Opt Out request bore competing October 14, 2014 and October 15, 2014 dates. The October 14 date was shown in the postage placed on the envelope by Mr. Horn’s attorney using a postage machine. The United States Postal Service stamped an

October 15 date on the envelope. Under the rules by which we measure timeliness, the postmark by the Postal Service controlled, rather than the date in the postage placed on the item by an office postage machine. On December 11, 2014, we received an email and sworn Affidavit from Andrea Knernschiold, a paralegal with Gregory Leyh, P.C., the law firm representing Mr. Horn. Ms. Knernschiold handled the submission of an Opt Out request for Mr. Horn. In her Affidavit, she attested that she had emailed a PDF of Mr. Horn's Opt Out request to Class Counsel on October 14, 2014, and that she had physically placed the item in the U.S. mail on the same date. We presented these materials to counsel for the Parties. The Parties decided to accept the proffer made on behalf of Mr. Horn. We agree that these materials are credible evidence that this Opt Out was timely mailed and now classify it as timely.

There have been no further developments regarding the other Opt Out requests identified in the Third Opt Out Report.

Respectfully submitted,

**CLAIMS ADMINISTRATOR**

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Date: December 12, 2014

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing Fourth Opt Out Report was filed electronically this 12<sup>th</sup> day of December, 2014, and was served electronically upon Class Counsel, counsel for the NFL Parties and all counsel of record by the United States District Court for the Eastern District of Pennsylvania's electronic filing system.

**/s/ Orran L. Brown**

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